

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

DAVID L. ROOKS,

Plaintiff,

v.

No. CV 17-929 CG

NANCY A. BERRYHILL,  
Acting Commissioner of the Social  
Security Administration,

Defendant.

**ORDER AWARDING ATTORNEY FEES PURSUANT TO  
THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)**

**THIS MATTER** is before the Court on the parties' *Stipulation Regarding Award of Attorney Fees Under the Equal Access to Justice Act*, (Doc. 24), filed October 25, 2018, in which the parties state they have agreed to an award of \$6,500.00 in attorney fees.

**IT IS THEREFORE ORDERED** that Plaintiff be awarded \$6,500.00 in attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). *See Astrue v. Ratliff*, 560 U.S. 586, 591-93 (2010) (providing EAJA fees are paid to the prevailing party, not the attorney).

**IT IS FURTHER ORDERED** that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b), Section 206(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

**IT IS SO ORDERED.**

  
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THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE